

AMENDED IN SENATE MAY 20, 1997
AMENDED IN SENATE MAY 14, 1997
AMENDED IN SENATE APRIL 16, 1997
AMENDED IN SENATE MARCH 31, 1997
AMENDED IN SENATE MARCH 17, 1997

SENATE BILL

No. 329

Introduced by Senator McPherson
(Principal coauthor: Assembly Member Keeley)
(Coauthor: Assembly Member Brown)

February 12, 1997

An act to amend Sections ~~744~~, 4181, 4181.1, and 4651 of, and to add Section 4181.2 to, the Fish and Game Code, relating to game, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as amended, McPherson. Depredation: wild pigs.

~~(1) Existing law includes a legislative declaration that revenues, reimbursements, and federal funds received for hunting and sport fishing programs shall not be used to support commercial fishing, free hunting and fishing, or nongame fishing and wildlife programs.~~

~~This bill would make a legislative declaration that those funds shall not be used for depredation control of wild pigs, as specified.~~

~~(2)~~

(1) Existing law provides that, except for mountain lions, the owner or tenant of land or property that is being damaged or destroyed by specified mammals, including wild pigs, may apply to the Department of Fish and Game for a permit to kill the animal. Existing law requires the department to provide the applicant for a depredation permit to take wild pigs with specified information on available options for wild pig control.

This bill would require the department to also furnish that information to a person who reports the taking of wild pigs that are found in the act of damaging or destroying property. In addition, the bill would authorize the department to maintain and make available to these persons lists of hunters interested in wild pig hunting and lists of nonprofit organizations that are available to take possession of depredating wild pig carcasses.

~~(3)~~

(2) Existing law designates those mammals that are game mammals, including wild pigs, for purposes of the Fish and Game Code and regulations adopted pursuant to that code. Existing law makes it unlawful for a person to take wild pigs, except those damaging or destroying property, unless the person has a hunting license and license tag, or to possess a wild pig that is not tagged.

This bill would exempt the possession of certain depredating wild pigs from that tagging requirement.

~~(4)~~

(3) Existing law authorizes the immediate taking of a bear or wild pig that is encountered in the act of inflicting injury to, molesting, or killing livestock if the taking is reported to the department no later than the next working day.

This bill would, instead, with respect to wild pigs, authorize the immediate taking of a wild pig that is encountered while in the act of pursuing or worrying livestock or damaging or destroying, or threatening to immediately damage or destroy, land or property, including, but not limited to, threatened rare or endangered native plants, wildlife, or aquatic species, by the owner of the livestock, land, or property or the owner's agent or employee, or by an agent or employee of any federal, state, county, or city entity when acting in his or her official capacity. The bill would require the person taking a wild pig

under the bill to report the taking no later than the next working day to the department and to make the carcass available to the department. The bill would authorize possession of the carcass of a wild pig taken under the bill, unless otherwise directed by the department, and transfer of the carcass without compensation. The bill would require the person in possession of the carcass to make every reasonable effort to ensure utilization of the carcass. The bill would also define “damage” for certain other provisions of law relating to damage caused by depredating wild pigs, and would require the department to develop statewide guidelines for determining the damage caused by wild pigs.

~~(5)–~~

(4) Existing law requires the department to prepare a plan for the management of wild pigs, including specified matters.

This bill would authorize the plan to include encouragement of mitigation of depredation and live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation with the consent of the landowner.

~~(6)–~~

(5) Because a violation of the bill or regulations adopted pursuant to the bill would be a misdemeanor under existing law, the bill would impose a state-mandated local program.

~~(7)–~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(8)–~~

(7) Existing law continuously appropriates the money in the Fish and Game Preservation Fund, among other things, to pay specified refunds and to pay all necessary expenses incurred in carrying out the Fish and Game Code and any other laws for the protection and preservation of birds, mammals, reptiles, and fish.

Because this bill would change and impose new duties on the department, it would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 711 of the Fish and Game Code~~
2 ~~is amended to read:~~
3 ~~711. It is the intent of the Legislature to ensure~~
4 ~~adequate funding from appropriate sources for the~~
5 ~~department. To this end, the Legislature finds and~~
6 ~~declares all of the following:~~
7 ~~(a) The costs of nongame fish and wildlife programs~~
8 ~~and free hunting and fishing license programs shall be~~
9 ~~provided annually in the Budget Act by appropriating~~
10 ~~money from the General Fund and sources other than the~~
11 ~~Fish and Game Preservation Fund to the department for~~
12 ~~these purposes.~~
13 ~~(b) The costs of commercial fishing programs shall be~~
14 ~~provided out of revenues from commercial fishing taxes,~~
15 ~~license fees, and other revenues, from reimbursements~~
16 ~~and federal funds received for commercial fishing~~
17 ~~programs, and other funds appropriated by the~~
18 ~~Legislature for this purpose.~~
19 ~~(c) The costs of hunting and sport fishing programs~~
20 ~~shall be provided out of hunting and sport fishing~~
21 ~~revenues and reimbursements and federal funds~~
22 ~~received for hunting and sport fishing programs, and~~
23 ~~other funds appropriated by the Legislature for this~~
24 ~~purpose. These revenues, reimbursements, and federal~~
25 ~~funds shall not be used to support commercial fishing~~
26 ~~programs, free hunting and fishing license programs,~~
27 ~~nongame fish and wildlife programs, or for the purposes~~
28 ~~of Section 4181 or 4181.1 relating to wild pigs.~~
29 ~~(d) The costs of managing lands managed by the~~
30 ~~department and the costs of wildlife management~~
31 ~~programs shall be supplemented out of revenues in the~~
32 ~~Native Species Conservation and Enhancement Account~~
33 ~~in the Fish and Game Preservation Fund.~~

1 ~~(e) The department shall conduct, or contract for, a~~
2 ~~review, at least every five years, of its programs to ensure~~
3 ~~consistency with this section.~~

4 ~~(f) Hunting, sport fishing, and sport ocean fishing~~
5 ~~license fees shall be adjusted annually to an amount equal~~
6 ~~to that computed pursuant to Section 713. However, a~~
7 ~~substantial increase in the aggregate of hunting and sport~~
8 ~~fishing programs shall be reflected by appropriate~~
9 ~~amendments to the sections of this code that establish the~~
10 ~~base sport license fee levels. The inflationary index~~
11 ~~provided in Section 713 may not be used to accommodate~~
12 ~~a substantial increase in the aggregate of hunting and~~
13 ~~sport fishing programs.~~

14 ~~For purposes of this article, “substantial increase”~~
15 ~~means an increase in excess of 5 percent of the Fish and~~
16 ~~Game Preservation Fund portion of the department’s~~
17 ~~current year support budget, excluding cost-of-living~~
18 ~~increases provided for salaries, staff benefits, and~~
19 ~~operating expenses.~~

20 ~~SEC. 2.—~~

21 *SECTION 1.* Section 4181 of the Fish and Game Code
22 is amended to read:

23 4181. (a) Except as provided in Section 4181.1, any
24 owner or tenant of land or property that is being damaged
25 or destroyed or is in danger of being damaged or
26 destroyed by elk, bear, beaver, wild pig, or gray squirrels,
27 may apply to the department for a permit to kill the
28 mammals. The department, upon satisfactory evidence of
29 the damage or destruction, actual or immediately
30 threatened, shall issue a revocable permit for the taking
31 and disposition of the mammals under regulations
32 adopted by the commission. The permit shall include a
33 statement of the penalties that may be imposed for a
34 violation of the permit conditions. Mammals so taken
35 shall not be sold or shipped from the premises on which
36 they are taken except under instructions from the
37 department. No iron- or steel-jawed or any type of
38 metal-jawed trap shall be used to take any bear pursuant
39 to this section. No poison of any type may be used to take
40 any gray squirrel pursuant to this section. The

1 department shall designate the type of trap to be used to
2 insure the most humane method is used to trap gray
3 squirrels. The department may require trapped squirrels
4 to be released in parks or other nonagricultural areas. It
5 shall be unlawful for any person to violate the terms of any
6 permit issued under this section.

7 (b) The permit issued for taking bears pursuant to
8 subdivision (a) shall contain the following facts:

9 (1) Why the issuance of the permit was necessary.

10 (2) What efforts were made to solve the problem
11 without killing the bears.

12 (3) What corrective actions should be implemented to
13 prevent reoccurrence.

14 (c) With respect to wild pigs, the department shall
15 provide an applicant for a depredation permit to take
16 wild pigs or a person who reports taking wild pigs
17 pursuant to subdivision (b) of Section 4181.1 with written
18 information that sets forth available options for wild pig
19 control, including, but not limited to, depredation
20 permits, allowing periodic access to licensed hunters, and
21 holding special hunts authorized pursuant to Section
22 4188. The department may maintain and make available
23 to these persons lists of licensed hunters interested in wild
24 pig hunting and lists of nonprofit organizations that are
25 available to take possession of depredating wild pig
26 carcasses.

27 ~~SEC. 3.—~~

28 *SEC. 2.* Section 4181.1 of the Fish and Game Code is
29 amended to read:

30 4181.1. (a) Any bear that is encountered while in the
31 act of inflicting injury to, molesting, or killing, livestock
32 may be taken immediately by the owner of the livestock
33 or the owner's employee if the taking is reported no later
34 than the next working day to the department and the
35 carcass is made available to the department.

36 (b) Notwithstanding Section 4652, any wild pig that is
37 encountered while in the act of inflicting injury to,
38 molesting, pursuing, worrying, or killing livestock or
39 damaging or destroying, or threatening to immediately
40 damage or destroy, land or other property, including, but

1 not limited to, threatened rare or endangered native
2 plants, wildlife, or aquatic species, may be taken
3 immediately by the owner of the livestock, land, or
4 property or the owner's agent or employee, or by an
5 agent or employee of any federal, state, county, or city
6 entity when acting in his or her official capacity. The
7 person taking the wild pig shall report the taking no later
8 than the next working day to the department and shall
9 make the carcass available to the department. Unless
10 otherwise directed by the department and
11 notwithstanding Section 4657, the person taking a wild
12 pig pursuant to this subdivision, or to whom the carcass
13 of a wild pig taken pursuant to this subdivision is
14 transferred pursuant to subdivision (c), may possess the
15 carcass of the wild pig. A violation of this subdivision is
16 punishable pursuant to Section 12000. It is the intent of
17 the Legislature that nothing in this subdivision shall be
18 interpreted to authorize a person to take wild pigs
19 pursuant to this subdivision in violation of a state statute
20 or regulation or a local zoning or other ordinance that is
21 adopted pursuant to other provisions of law and that
22 restricts the discharge of firearms.

23 (c) The department shall make a record of each report
24 made pursuant to subdivision (a) or (b) and may have an
25 employee of the department investigate the taking or
26 cause the taking to be investigated. The person taking a
27 wild pig shall provide information as deemed necessary
28 by the department. Upon completion of the
29 investigation, the investigator may, upon a finding that
30 the requirements of this section have been met with
31 respect to the particular bear or wild pig taken under
32 subdivision (a) or (b), issue a written statement to the
33 person confirming that the requirements of this section
34 have been met. The person who took the wild pig may
35 transfer the carcass to another person without
36 compensation. The person in possession of the carcass
37 shall make every reasonable effort to ensure utilization of
38 the carcass and that effort to ensure utilization of the
39 carcass shall be deemed to constitute compliance with
40 Section 4304.

(d) Notwithstanding Section 4763, any part of any bear lawfully possessed pursuant to this section is subject to Section 4758.

(e) Nothing in this section prohibits federal, state, or county trappers from killing or trapping bears when the bears are killing or molesting livestock, but no iron- or steel-jawed or any type of metal-jawed trap shall be used to take the bear, and no person, including employees of the state, federal, or county government, shall take bear with iron- or steel-jawed or any type of metal-jawed traps.

~~SEC. 4.—~~

SEC. 3. Section 4181.2 is added to the Fish and Game Code, to read:

4181.2. For the purposes of this article relating to damage caused by wild pigs, “damage” means loss or harm resulting from injury to person or property. The department shall develop statewide guidelines to aid in determining the damage caused by wild pigs. The guidelines shall consider various uses of the land impacted by pigs.

~~SEC. 5.—~~

SEC. 4. Section 4651 of the Fish and Game Code is amended to read:

4651. (a) The department shall prepare a plan for the management of wild pigs. Under the plan, the status and trend of wild pig populations shall be determined and management units shall be designated within the state. The plan may establish pig management zones to address regional needs and opportunities. In preparing the plan, the department shall consider available, existing information and literature relative to wild pigs.

(b) The plan may include all of the following:

(1) The distribution and abundance of wild pigs, as described in Section 3950.

(2) A survey of range conditions.

(3) Recommendations for investigations and utilization of wild pigs.

(4) Encouraging mitigation of depredation pursuant to this chapter.

(5) Live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation, with the consent of the landowner, pursuant to this chapter.

~~SEC. 6.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

